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OFFICE OF PETITIONS

In re Application of :
Aziz Rassi Neto :
Application No. 10/022,313 : ON PETITION
Filed: 17 December, 2001 :
Att'y Docket No. 162321 :

This is a decision on the petition under 1.137(b),¹ filed on 8 February, 2005, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 28 December, 2004, for failure to file a proper reply to the final Office action mailed on 27 July, 2004, which set a three (3) month shortened statutory period for reply. On 27 December, 2004, petitioner filed a two

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).


(2) month extension of time under 37 CFR 1.136(a) along with an amendment after final rejection. The amendment was determined not to place the case in *prima facie* condition for allowance, however. An Advisory Action notifying applicant of such was mailed on 11 January, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) with the present petition and has indicated that the previously filed amendment is the submission required by 37 CFR 1.114.

Petitioner should note that effective 8 December, 2004, the small-entity fee for a petition under 37 CFR 1.137(b) is \$750.00. The balance of the fee due will be charged to counsel's deposit account, No. 50-0851, as authorized in the present petition.

The application is being referred to Technology Center Art Unit 3731 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
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Office of Petitions